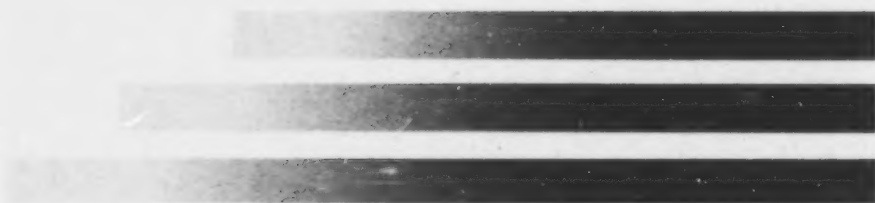




MOTOR CARRIER COMMISSION



**Annual Report
2002/2003**

**Pursuant to Section 37
of the *Motor Carrier Act***

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ANNUAL REPORT OF THE

***Motor Carrier
Commission***

*63rd Annual Report
Covering the Licence Year ended
February 28, 2003*

*Pursuant to Section 37
of the Motor Carrier Act*

Victoria, British Columbia

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August 15, 2003

*To Her Honour the Lieutenant Governor in Council
of the Province of British Columbia*

May it please Your Honour:

I am respectfully submitting the 63rd Annual Report, covering the motor carrier licensing year March 1, 2002 to February 28, 2003, pursuant to section 37 of the *Motor Carrier Act*.

Dennis J. Day, Chair

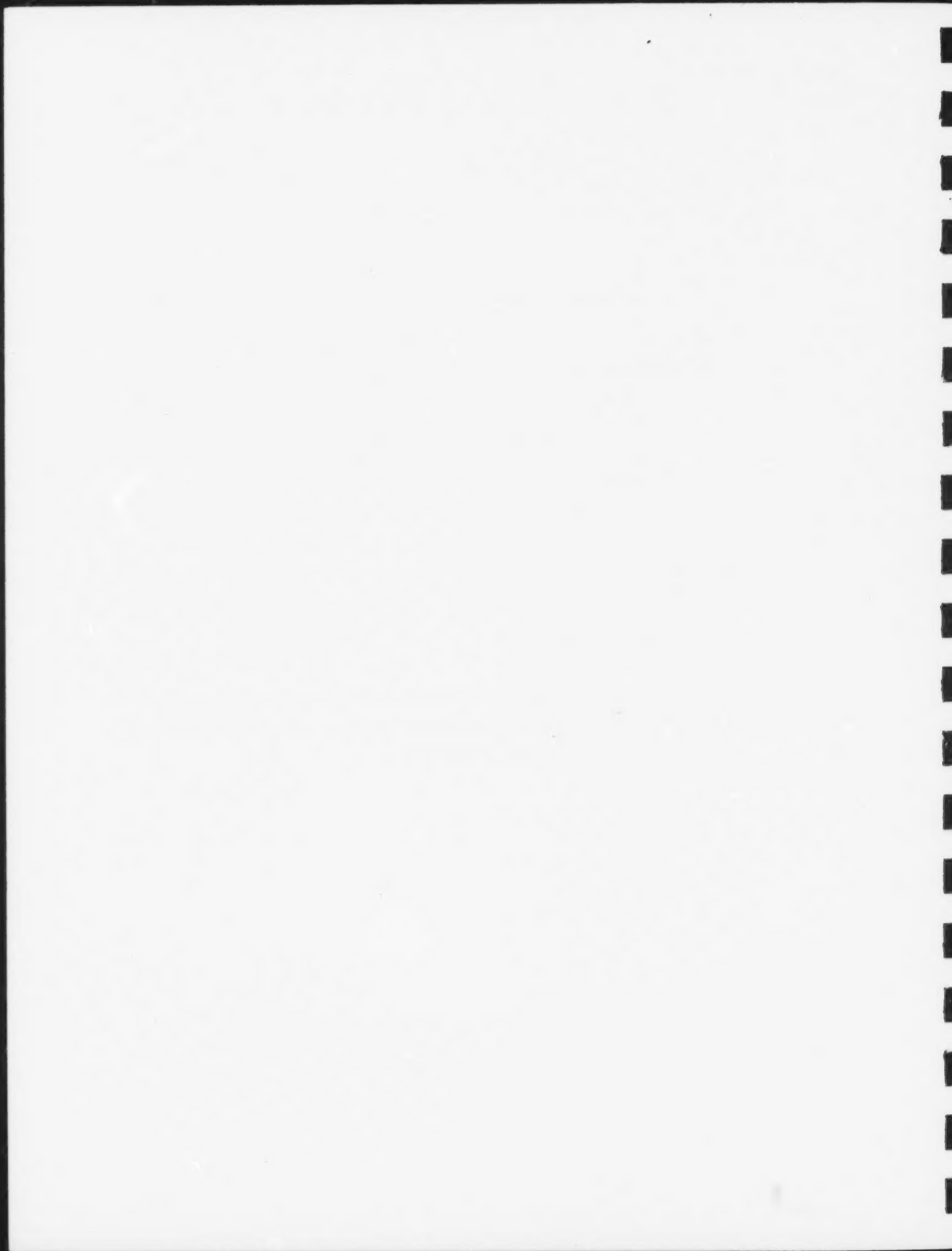




Table of Contents

Introduction	1
Motor Carrier Commission	2
2002/2003 Highlights	4
Legislative and Regulatory Changes	7
Licensed Motor Carriers	8
Revenues	10
Commission Decisions and Orders	11
Commission Goals	12
2002/2003 Performance	13
Appendix 1 Commissioners	23
Appendix 2 Commission Staff	24
Appendix 3 Amendments to the Motor Carrier Act and Regulations	25
Appendix 4 Orders Signed in 2002/03	26
Appendix 5 Reconsideration Orders Signed in 2002/03	32



INTRODUCTION

The Motor Carrier Commission licenses commercial passenger transportation services pursuant to the *Motor Carrier Act*. This Annual Report is prepared in accordance with the legislative requirements of the *Motor Carrier Act*, and outlines the major activities of the Commission in the 2002/2003 licensing year.

The 2002/2003 licensing year began March 1, 2002 and ended February 28, 2003. All information is presented according to the licensing year with the exception of the Commission's operating budget that is reported on a fiscal year basis, from April 1, 2002 until March 31, 2003.

This Annual Report sets out information and events that are within the mandate of the Motor Carrier Commission and its operational scope. They also include the Commission's monitoring and management of services performed by the Insurance Corporation of British Columbia (ICBC) under delegated authority to help the Commission administer the *Motor Carrier Act*.

MOTOR CARRIER COMMISSION

Mandate

The Motor Carrier Commission is an independent adjudicative body that administers the *Motor Carrier Act* and licences motor carriers such as taxis, limousines and buses (excluding transit buses) that transport passengers for compensation in British Columbia.

Section 39(1) of the *Motor Carrier Act* vests the Commission with the duty to:

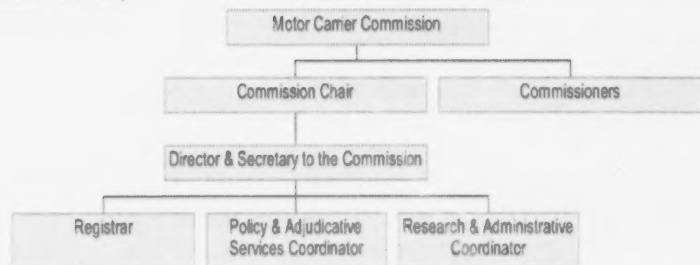
- ♦ promote adequate and efficient service to the public at just and reasonable charges;
- ♦ promote safety on the public highways; and
- ♦ foster sound economic conditions in the transportation industry.

Section 39(2) enables the Commission to make investigations, inquiries, regulations and orders to meet the above objectives. The Commission also licenses extra-provincial motor carriers (usually buses) under delegated authority from the federal government in accordance with the *Motor Vehicle Transport Act (1987)* of Canada.

Structure

The Commission is comprised of one Chair and Commissioners, all of whom serve on a

part-time basis. Commissioners make decisions on licences, permits, licence suspensions and cancellations and other matters relating to motor carrier operations. They also formulate policies relating to the motor carrier industry. The Commission maintains a small office and staff in Victoria, and a part-time Special Assistant to the Chair based in Burnaby. The following organizational chart provides an overview of the Commission structure.



In 2002/03 the Commission was accountable to the Minister of Transportation. Names of Commissioners are provided in Appendix 1, and names of staff are provided in Appendix 2.

Operations

The Insurance Corporation of British Columbia (ICBC) helps the Commission carry out its mandate by providing compliance, enforcement, licensing and administrative services. The provision of these services has been formalized in a memorandum of understanding (MOU) between ICBC and the Commission. For the most part, ICBC's Motor Carrier Department is the operational arm of the Commission and deals directly with licensed and prospective motor carriers. In addition, some motor carrier services are provided by ICBC through its Regional Operations and

Compliance Operations, including its weigh scales and National Safety Code office.

In 2002/03, the government announced that the Motor Carrier Department would be transferred to the Ministry of Transportation as of April 1, 2003. Motor vehicle compliance staff would be transferred to the Ministry of Public Safety and Solicitor General. This will enable the Department to better support the work of the Commission as well as enable Government to better deploy compliance and enforcement resources.

2002/2003 HIGHLIGHTS

Major developments and issues facing the Commission in 2002/2003 included:

Core Services Review

In August 2001, the provincial government announced its Administrative Justice Project (AJP) to undertake a core services review of administrative justice agencies in British Columbia. The review aimed to ensure that:

- administrative agencies in British Columbia meet the needs of the people they serve;
- administrative processes are open and transparent;
- agency mandates are modern and relevant; and
- government fulfills its obligations by providing the legislative and policy framework that administrative agencies need to carry out their mandates in an independent and effective manner.

The Motor Carrier Commission is included in the Administrative Justice Project. Subsequently, the Ministry of Transportation undertook a detailed review of motor carrier regulation in June 2002 that included Ministry consultations with a number of licensees and other stakeholders including municipalities and police agencies. The Commission assisted the Ministry by providing information and input.

Future Directions for Motor Carrier Regulation

On February 6, 2003, the Honourable Judith Reid, Minister of Transportation, announced

government's future policy direction for the regulation of the motor carrier industry. The government intends to revise legislation and regulations to make it easier to do business for bus, taxi and limousine companies, and to improve enforcement while continuing to promote public safety. The changes are aimed at streamlining the application process, easing the bureaucratic load on carrier businesses and providing better service for passengers. Interim regulatory changes will be provided first, and legislative changes will follow.

Lifting Taxi Moratorium in Lower Mainland

Since 1998, the Commission has had a moratorium on taxi applications in the Lower Mainland. This moratorium was modified in December 1999. In December 2001, *An Examination of the Taxi Supply in the Lower Mainland* was released and posted at the Commission web site. In 2002, the Commission published a Notice to Industry announcing its decision to remove the moratorium to begin accepting taxi licence applications that met specified criteria.

Taxi Advisory Committee

The Taxi Advisory Committee (TAC) has representatives from industry, persons with disabilities, seniors, ICBC, WCB, the Vancouver Airport Authority, the Union of BC Municipalities, as well as the Commission. In 2002/03, it continued to address the priority issues of: fare structure increases (see taxi cost index), driver and vehicle safety, and service standards. A subcommittee works on driver safety matters. Additional matters raised by TAC members included: vehicle inspections;

implementation of accessible vehicle regulations; operation of unlicensed vehicles; and vehicle identification. TAC members also participated in, and provided comment on, the Ministry review of motor carrier regulation.

Taxi Cost Index

On October 21, 2002, the Commission announced its approval of a taxi cost index (TCI) as a streamlined and objective mechanism for determining the level of future taxi fare increases. The TCI determines fare increases based on objective economic indicators such as fuel prices, insurance, wages, and the Consumer Price Index. In 2002, taxi companies were eligible to request an increase of up to 3.34 percent that year for all metered rates (distance, flag and wait time) without paying the tariff application fee and posting notice in newspapers or providing financial information to the Commission. Taxi companies may seek a greater increase by applying through the regular process.

Bus Industry Advisory Committee (BIAC)

In 2002/03, activities of the Commission's Bus Industry Advisory Committee were focused on the review of the Commission mandate and regulations. BIAC was used as one forum for consultation with the Ministry, and a subcommittee of industry representatives and Commission staff met to discuss definition issues for consideration by the Ministry.

Significant Orders

Throughout 2002/03, continued to hold included decisions on shared ride services

for taxis, an inquiry into an unlicensed carrier and wheelchair accessible taxis (see appendix 4 for a summary of Orders)

Communications Enhancements

The Commission maintained its continual addition of materials to the Commission web site. The Commission revised its application package so it is more user-friendly and easier to understand. It also published an information sheet on the Reconsideration process to help participants better understand their role and steps to take in the process.

Regulatory Changes

Starting in September 2002, further to Government's de-regulation objectives, the Commission undertook a review of its existing regulations. The Commission anticipates that revisions will be forwarded to Cabinet for approval in the summer of 2003.

The Community Care Facility Exemption Regulation (BC Reg. 102/202) came into force on May 17, 2002.

Changes at the Commission

Four Commissioners resigned in 2002/03, and three new Commissioners were appointed. Claude G. Heywood, Gail Davidson and John Hooper resigned June 30, 2002. Paul Starek resigned July 19, 2002. On August 6, 2003, the Commission announced the government's appointment of Dennis J. Day as Chair, and William H. Bell and Dale Wall as Commissioners. Dennis Day is a business development consultant and former president of Fletcher

Challenge Canada Pulp with a master of business administration degree from Simon Fraser University. Bill Bell was an Assistant Deputy Minister of Management Services, and Dale Wall is Assistant Deputy Minister of Community, Aboriginal and Women's Services.

*

The contents of this annual report provide more detailed information about the Commission's administration of the Motor Carrier Act and key accomplishments and events in 2002/03.



LEGISLATIVE AND REGULATORY CHANGES

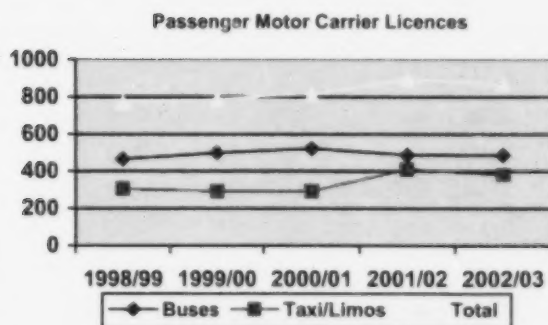
On May 17, 2003, the *Community Care Facility Exemption Regulation* (BC Reg. 102/202) came into force. This new regulation exempts child and adult care facilities that provide passenger transportation when licensed under the *Community Care Facility Act*.

Also in 2002/03, one minor housekeeping change was made to the definition of "motor vehicle" in the *Motor Carrier Act*. The change brings the definition in line with the *Motor Vehicle Amendment Act, 2000* (Bill 20).

On February 6, 2002, the Minister of Transportation announced that the Government will make regulatory and legislative changes to cut red tape, remove outdated regulations, enhance public safety and support a thriving private-sector economy and stimulate tourism. Starting in September 2002, the Commission undertook a review of its existing regulations and anticipates that revisions will be forwarded to Cabinet for approval in the summer of 2003—after the 2002/03 motor carrier licensing year.

LICENSED MOTOR CARRIERS

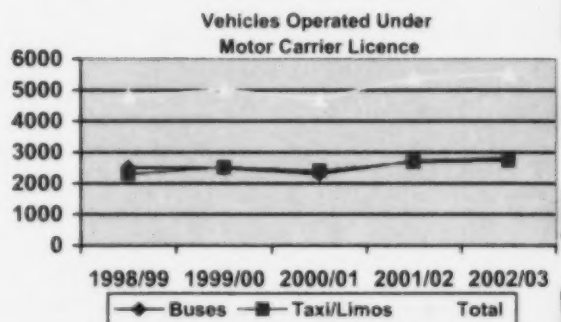
Overall, the number of licensed passenger motor carriers declined by 3%—from 899 in 2001/02 to 869 in 2002/03. The number of licensed bus companies plateaued at 487, while the number of licensed taxi and limousine companies fell by 7% from 411 to 382.



Statistics for taxis and limousines, as separate groups, are available for the past two years only. Since 2001/02, the number of taxi companies declined 8% from 308 to 285, and the number of limousine companies declined 6% from 103 to 97.

For the first time in several years, the Commission held administrative show cause hearings under section 10 of the Act to cancel inactive licences. This process resulted in 71 show cause hearings and the cancellation of 70 motor carrier licences, or almost 8% of motor carrier licences. Despite the statistical declines noted previously, it is possible that the number of active licence holders remained constant or increased by a small percentage.

The number of passenger vehicles operated in 2002/03 under a passenger motor carrier licence increased by 2%—from 5,405 to 5,529.



The number of buses operated under a motor carrier licence increased by 3% from 2,719 to 2,804. The number of taxis and limousines operated under a passenger motor carrier licence increased by 1.5% over the previous year—from 2,686 to 2,725. Of this total, taxis increased by 1.5% from 2,315 to 2,351, and limousines increased by less than 1% from 371 to 374.

As explained previously, the statistical decline in the number of licensed carriers may, in fact, be a slight increase. Based on the vehicle statistics, it appears that the licensed motor carrier industry grew by approximately 2% in the 2002/03 licensing year. Most of the growth would be attributable to growth of existing motor carrier fleets. It appears that the bus industry grew at twice the pace of the taxi and limousine industry.

TEMPORARY PERMITS

Part 10 of the Motor Carrier Regulations enables the Commission to issue temporary permits instead of, or as an adjunct to, motor carrier licences. Temporary permits may authorize seasonal, emergency or occasional operation of scheduled buses or commercial passenger vehicles. Generally, temporary operating permits are not issued to new applicants prior to a decision on an application.

The following table summarizes the number of permits issued by ICBC in Burnaby and its regional offices in 2002/03:

Temporary Permits			
2002/03	Burnaby	Regional	Total
Paid Permits (fee required)	353	72	425
Free Permits	66	2	68
Total	419	74	493

This is the second licensing year for which statistics were collected from regional offices. Compared to the previous year, the total number of permits declined by 8% from 536 to 493. The number of paid permits declined by 10% from 473 to 425, and the relatively small number of free permits increased by 8%. The number of paid and free permits issued in the past two years (by Burnaby and the Regional offices) is more than a third higher than the number reported by Burnaby in 2000/01.

REVENUES

A total of \$669,003 was paid into General Revenue for the 2002/2003 licence year. This represents a slight increase of less than 1% over the previous year. However, revenue from licensing fees increased by 7%, and revenue from fees of a more administrative nature declined by 19%.

¹ Includes extra-provincial and regional permits, funds not assigned, and other miscellaneous fees. For 2000/01, the category includes hearing fees.

² General fees include fees for filings, replacements, miscellaneous, and hearings.

Types of Fee	2000/2001	2001/02	2002/03
Licensing Fees	471,100	505,600	539,350
Filing Fees	64,400	55,500	50,286
Temporary Permits	11,700	71,840	61,850
Replacements	8,050	13,050	9,680
Miscellaneous ¹	30,280	1,940	2,087
Hearings	-	16,900	5,750
Total	585,530	664,830	669,003

Revenue from licensing fees continued to rise steadily across all sectors, while fee schedules did not change. The first of the following tables shows that, in 2002/03, bus licence fees increased by 8% over the previous year. The second table provides separate statistics for taxis and limousines for the past two licensing years. This table shows increases in taxi licence fees of 5%, and in limousine licence fees of 9%.

Estimated Licence Fees	2000/2001	2001/02	2002/03
Buses	230,800	254,344	275,068
Taxi/Limos	240,300	251,256	264,282
Subtotal	471,100	505,600	539,350
Permits	11,700	71,840	61,850
General Fees ²	102,730	87,390	67,803
Subtotal	114,430	159,230	129,653
Total	585,530	664,830	669,003

Types of Fee	2001/02	2002/03
Taxis	216,552	226,527
Limousines	34,704	37,755
Total	251,256	264,282

COMMISSION DECISIONS AND ORDERS

Most Commission decisions are based on the review of an application, the application file, and a report and recommendation that has been prepared by the Motor Carrier Department.

In some cases, after an investigation, the Department provides a written report to the Commission. In fewer instances, an application is further investigated by way of a public hearing.

When the Commission makes a licensing decision at an administrative file review, or by a file review, the outcome is communicated to the applicant through a decision letter. Any relevant Commission memos or investigation reports are attached to the letter. A summary of the decision is then published in the *Green Sheets*.

In cases where a public hearing precedes the Commission decision, the decision is incorporated into an order that typically contains detailed written reasons. These orders are sent to the parties of record, and a summary is published in the *Green Sheets*. Orders are posted in full at the Commission web site. The Commission considers all application on their own merits and particular fact situations. Although the Commission strives for consistency in the decisions it makes, past orders are not binding on the Commission.

In the 2002/2003 licensing year, the Commission issued 16 orders, as per the table below. Most orders dealt with licence applications. Another 15 reconsideration orders were issued.

Orders	99/00	00/01	01/02	02/03
Licensing Orders	9	19	50	16
Reconsideration Orders:				
Application for Leave	15	12	6 ¹	n/a
Reconsideration Orders	11	3	3	15
Subtotal	35	34	59	31

Appendix 4 provides a summary of licensing orders signed in 2002/03, and Appendix 5 provides a summary of reconsideration orders.

The 31 orders in 2002/03 do not include 71 orders that followed the "bulk show cause hearings" on June 24, 2002. This is a special administrative process to cancel inactive licences that has not occurred since freight carriers were excluded from regulations under the *Motor Carrier Act* as of January 1, 2000.

¹ As of March 1, 2001, the "request for leave for reconsideration" portion of the reconsideration process was eliminated by a change to section 54 of the *Motor Carrier Act*. However, some "requests for leave" had been received prior to March 1, 2001, but were not dispensed with by that date.

COMMISSION GOALS

The Commission has the following goals:

1. Fair and Timely Decisions

Provide fair and timely consideration and adjudication of issues arising under the Motor Carrier Act.

2. Meeting the Objectives of the Motor Carrier Act

Provide efficient, cooperative, responsive and timely services in administering and enforcing the Motor Carrier Act.

3. Stakeholder Cooperation to Enhance Motor Carrier Regulation

Work cooperatively with industry, the public and other transportation interests to enhance the regulation of motor carriers in British Columbia.

2002/2003

PERFORMANCE

The goals adopted by the Commission, as set out in the previous section, are used here as the basis for the performance measures for the 2002/03 licensing year.

1. Fair and Timely Decisions

Provide fair and timely consideration and adjudication of issues arising under the Motor Carrier Act.

Efficient, Effective and Independent Tribunal Governance

Motor Carrier Service Standards

The Commission and the Insurance Corporation of British Columbia (ICBC) continued to follow the Memorandum of Understanding (MOU) that they established in previous licensing years. The delineation of responsibilities and standards is key to ensuring the administration of the Commission mandate as set out in the Motor Carrier Act. Following the announcement by the Minister of Transportation that the Motor Carrier Department would be transferred from ICBC to the Ministry of Transportation, the Ministry and the Commission began drafting a new MOU between the Ministry and the Commission.

Code of Conduct

The Commission Code of Conduct remains in effect. The Code is a declaration that Commissioners will conduct themselves in a manner that is impartial, fair and within the scope of their duties and jurisdiction as a Commissioner.

Collaboration with Other Tribunals

The Chair of the Commission continued to participate in meetings of the Circle of Chairs which comprises Chairs of British Columbia tribunals to share information and discuss issues of common interest.

International Conference on Taxi Regulations

One staff member participated at a conference of the International Association of Transportation Regulators that dealt with taxi regulation across North America. Information about regulatory experiences of other jurisdictions throughout North America was shared with the Commission and Ministry, as well as the Taxi Advisory Committee.

Provincial Conference for Administrative Tribunals "Charting the Course for British Columbia"

One staff members attended the British Columbia Council of Administrative Tribunals (BCCAT) annual education conference that included sessions on the Administrative Justice Project, pre-hearing conferences as a case management and dispute resolution tool, and effective tribunal operations and cost recovery.

Budget Performance

Commission expenditures for the 2002/2003 fiscal year were within its allocated budget.

2002/2003		Actual
Budget vs. Actual	Budget	Expenditures
Salaries & Benefits	275,000	282,909
Operating Costs	321,000	213,872
Recoveries	(1,000)	0
Total	595,000	496,781

The Commission's budget in 2002/2003 represented a portion of that year's budget for the Ministry of Transportation.

Commission Meetings.

The Commission met six times in 2002/03 to address policy and operational matters.

Fairness and Consistency in Commission Decisions

Operational Meetings with Motor Carrier Department

The Commission began periodic meetings with some Department staff to discuss and coordinate operational and policy matters. Three meetings were conducted in 2002/03 that addressed licensing processes and investigation procedures for applications and complaints. These meetings of Commissioners, Commission staff and Department staff improved information sharing and collaboration on key operational matters and new policy directions.

Continued Access to Written Reasons

Since August 2000, the Commission has been posting licensing and reconsideration orders at the Commission web site. It also continues its more recent practice of drafting a memo where its decision differs from the recommendation of the Department. Such memos are shared with the applicant and form part of the rationale for the Commission's decision.

For the majority of applications that are granted at an administrative review meeting, a brief explanation of the Commission's reason for its decision is set out in a *minute*. The Commission continues to forward these *minutes* to applicants.

Timely Decisions by the Commission

The following table shows, over two years, a 4% increase in the total number of applications that were published in the *Green Sheets* by the 2002/2003 licensing year:

Published	00	01	02
Applications	01	02	03
New Licence	85	94	62
Alteration	145	129	147
Time Schedule	20	15	22
Tariff	68	42	101
Total	318	280	332

The table shows that new licence applications declined while tariff applications doubled. The next table reports on the public hearings that were conducted in

recent licensing years:

	00	01	02
Public Hearings	01	02	03
Licence Application	12	53	9 ⁴
Reviews	1	2	1
Section 44	0	0	1
Show Cause	0	0	1
Oral	3	1	3
Reconsideration			
Written	0	2	12
Reconsideration			
Subtotal	16	58	27
"Bulk" Show Cause	0	0	71
Total	16	58	98

Decision Making Timelines

In 2002/03, the Commission tracked the time taken to reach certain milestones toward a decision, starting with the application publication date (in the *Green Sheets*). The table below covers 255 applications published from March 31 to December 31, 2002.

Published Applications ¹	Number of Applications	Investigation Report Complete	Hearing Date	Hearing Date to Order	Total Decision Making Time
Admin File Meetings	139	n/a	n/a	n/a	28 days
Tariff	62	n/a	n/a	n/a	34 days
Investigation Report	38	96 days	n/a	n/a	112 days
Public Hearing	16	137 days	327 days	66 days	386 days

For 79% of the applications, including tariff applications, decisions were made in approximately one month. Of the 15% of applications that were investigated by a

Motor Carrier Inspector, decisions took an average of 112 days. Of the remaining 6% of applications that went to a public hearing, the average time to reach a final decision was 13 months.

At times, the long period of time for applications that proceed to a public hearing is due to adjournments and delays that are beyond the control of the Commission. For example, in 2002 the processing of two applications was delayed for some months at the request of the applicants. Other times processing delays are a result of MCC/MCD processes or resources. MCC/MCD are working to improve processing times.

⁴ Note that the hearing for Order 23/02 is counted as a hearing for 2001/02 and 2002/03 because the hearing dates spanned the two licensing years.

2. Meeting the Objectives of the Motor Carrier Act

*Provide efficient, cooperative, responsive
and timely services in administering and
enforcing the Motor Carrier Act.*

Accessible Information, Documents and Forms

Web Access to Current Commission Information and Forms

The Commission began using its web site (<http://www.th.gov.bc.ca/mcc/mcc.htm>), in 2000/01 as a public repository for current Commission information, publications and forms. It regularly posts Commission Orders, Notices to Industry, updated forms, weekly copies of the Green Sheets, and other related documents. Both the Department and Commission advertise a general email address. The rapid development of the site was followed by a general reorganization in 2001/02 so that pertinent information can be accessed more quickly. In 2002/03, the Commission maintained the site by keeping materials current and posted new documents on time.

For the last three months of 2001/02, an average of 5,000 web pages or documents were downloaded each month. This is more than double the rate for the same period in 200/01. Web usage statistics for 2002/03 are not available due to changes in web statistics collection at the Ministry of Transportation. Regardless of the number of downloads per month, both the Commission and Department offices

routinely refer people to the web site when they are seeking motor carrier information.

Information Sheets

In 2002/03, the Commission published an information sheet on the reconsideration process.

Email Access

The Commission continues to advertise and use a generic email address to provide an additional, efficient option for communicating with the public. In 2002/03, the Motor Carrier Department began using a generic email as well.

Distribution of Green Sheets

The Commission's weekly bulletin, *the Green Sheets*, continues to be posted at the Commission web site and at the public notice board at the Motor Carrier Department office in Burnaby. In 2002/03, ICBC ceased the costly practice of distributing paper copies to various outlets such as Driver Services Centres and Appointed Agents. Independently, the BC Trucking Association continues to distribute the *Green Sheets* on a subscription basis.

Increased Use of Notices to Industry

In an effort to keep the industry and public up to date on current motor carrier issues, the Commission continued its posting of Notices to Industry in the Green Sheets and at the Commission web site. In 2002/03, the Commission issued 50% more notices compared to the past two years. This is largely due to announcements regarding the government review of motor carrier

regulations and changes to Commissioners. Nine notices were published in 2002/03:

- ◆ Minister Announces Future Directions
- ◆ Commission Advisory for Tour Promoters & Tour Bus Operators
- ◆ Tax Cab Rate Increases
- ◆ Taxi Meter Starting Point
- ◆ MCC Commissioners Appointed
- ◆ Revised Application Package
- ◆ Regulatory Review
- ◆ Moratorium Decision on Taxi Applications in the Lower Mainland
- ◆ 2001-02 Enforcement Statistics

Application Process Enhancements

Taxi Cost Index

In 2002/2003, the Commission approved the use of the Taxi Cost Index (TCI) as a new and objective mechanism to determine the level of future taxi fare increases. The application of the index enables taxi operators to apply for a 3.34% increase in metered rates (i.e. distance, flag and wait time). The taxi cost index was developed in consultation with the taxi industry and other stakeholders, including representatives from persons with disabilities and seniors organizations, municipalities, public transit and other related agencies. The TCI uses four weighted components: wages (30%), fuel (15%), insurance (8%), and the consumer price index (46%). As of

October 21, 2002, licensed taxi companies were able to apply for the increase through a streamlined process with few application requirements and without paying any fees.

Revised Application Package

The Commission revised its General Licence Application Package to make it more user-friendly. No significant changes were made to application requirements.

Regulatory Reform

In 2002/2003, much of the Commission's regulatory focus was on the core services review and administrative justice project of government, and the regulatory review of the Commission conducted by the Ministry of Transportation. The Commission provided information, advice and support for these government and ministry undertakings.

Minister's Announcement

On February 6, 2003, the Minister announced a government proposal to change the way the Commission operates to make doing business easier for bus, taxi and limousine companies, while improving enforcement and continuing to protect public safety. The Minister announced that the government is prepared to make regulatory and legislative changes that would:

- ◆ eliminate unnecessary regulations and operational requirements, such as schedule and fare amendments.
- ◆ Exempting from regulation a class of carrier where the transportation is

incidental to the service that is provided.

- Increasing the penalties for unlicensed carriers.
- Streamlining licence applications for new applicants and existing licensees.

Regulatory Changes by the Commission

In the fall, the Commission initiated a review of its regulations with the aim of amalgamation, eliminating redundancies, and streamlining processes. The Commission proposal will be forwarded for approval by the Minister of Transportation in 2003/04.

Taxi Applications for the Lower Mainland

Since 1998, the Commission has maintained a moratorium on applications for additional taxis operating in the Lower Mainland. On May 21, 2002, the Commission lifted the moratorium following a study into the supply of taxis in the Lower Mainland and consultation with industry. The Commission reaffirmed the need for applicants to provide evidence of public need for the service. Other requirements include specifying the number of wheelchair accessible vehicle to be used and the rationale for the number, notice to municipalities, submission of any relevant bylaws, and other information that the applicant considers pertinent.

Compliance & Safety

ICBC, through its Motor Carrier Department and various compliance staff located throughout the province undertake activities regarding motor carrier enforcement and compliance.

Compliance and Enforcement Activities

The following tables describe the tools that are used to promote compliance with *Motor Carrier Act*. The tables indicate a significant increase in the number of on-road enforcement days for the Motor Carrier Department, yet fewer overall vehicle checks and fewer sanctions with the exception of notices and orders.

Department		
Compliance Actions	01/02	02/03
Peace Officer Queries	154	126
Cease & Desist Letters	74	60
General Enquiries Closed	65	59
Complaints Closed	242	213
On-road enforcement (days)	6	47

Vehicle Checks (Regional Compliance ⁵)	2001	2002
Taxis	868	688
Limousines	106	177
Buses	1068	923
Total	2,042	1,788

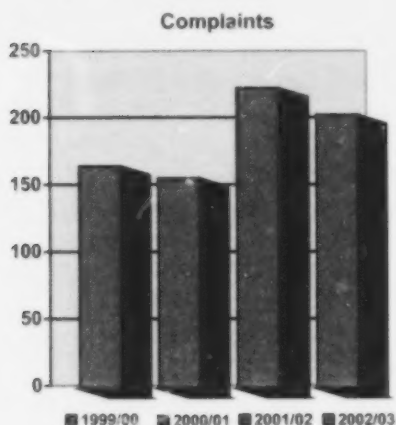
Enforcement Actions (Regional)

⁵ Includes Regional Compliance and Motor Carrier Department staff of ICBC

Compliance ⁶⁾	2001	2002
CVSA Reports Completed	989	837
Notice & Orders Issued	191	230
Violation Tickets Issued	60	38

Complaints

Industry and the public may register a complaint about non-compliance with the Motor Carrier Department. As illustrated in the graph below, the number of new complaints declined by 9% from 224 in 2001/02 to 204 in 2002/03.



As reported in the previous annual report, the number of complaints in 2001/02 was considered a spike that may be attributed to increased demand for services due to the transit strike that year. Despite the spike in the previous year and the relative decline in the past year, the general trend over five years is for a steady increase in the number of complaints. The Commission will monitor this trend and assess the effectiveness of the complaint process as government

implements its regulatory and legislative changes.

Tour Bus Safety

The Commission concluded its participation in a working group established by the Insurance Corporation of British Columbia (ICBC) that is reviewing the business practices and regulatory framework for tour bus companies that operate in British Columbia. In 2002/03, the Commission considered the recommendations of this group along with stakeholder comments and the government's future directions on motor carrier regulations—to reduce regulation in a way that maintains public safety.

On January 20, 2003, the Commission issued an advisory to tour promoter and tour bus operators (in the form of a Notice to Industry). The advisory noted the general safety of the bus industry and the risk in the tour bus industry where there is a convergence of economic incentives for bus drivers, bus companies, tour guides and tour promoters to disregard safety regulations. The advisory called for voluntary review of company system and practices relating, in particular, to ensure that the hours of service that bus drivers are on duty are safe and comply with existing regulations.

Section 44 Hearing

At the request of SnowClub and Blue Cactus Productions, the Commission held an enquiry under section 44 of the *Motor Carrier Act* to determine what, if any, type of transportation service is being provided and whether the *Act* would apply. The

⁶ Includes Regional Compliance and Motor Carrier Department staff of ICBC

Commission found that a scheduled bus operation was being provided, that a motor carrier licence would be required, and that the operation must cease and desist until proper authority is obtained.

Licence Suspensions

Under section 10 of the *Motor Carrier Act*, the Commission may suspend a licence without a hearing.

In 2002/03, the Commission suspended three licences:

- ♦ Order 14-02 suspends the licence of South Coast Transportation Group (1967) Ltd.
- ♦ Order 99-02 suspends the licence of Surrey Bus Service Ltd.
- ♦ Order 102-02 suspends the licence of Silver Fox Coach Lines Ltd.

These three licences were suspended because their safety certificate had been cancelled. The suspension of the motor carrier licence remains in effect until the Commission convenes a hearing to cancel the licence or the licensee demonstrates that it has obtained a new safety certificate and that it is able to operate its vehicles and business in an adequate, safe and efficient manner.

Licence Cancellations

One show cause hearing was conducted in 2002/03 to cancel a motor carrier licence, in addition to the 71 "bulk" show cause hearings:

- ♦ Order 103-02 cancels the licence of South Coast Transportation Group (1967) Inc.

Bulk Show Cause Cancellations

The Commission conducted 71 "bulk" show cause hearings, most on June 24, 2002, as administrative housekeeping procedure to cancel inactive licences. All but one of the 71 show cause hearings resulted in the cancellation of the licence. This is the first time such hearings have been conducted since freight was excluded from the *Motor Carrier Act* as of January 1, 2000.

3. Stakeholder Cooperation to Enhance Motor Carrier Regulation

Work cooperatively with industry, the public and other transportation interests to enhance the regulation of motor carriers in British Columbia.

Cooperation with industry and public stakeholders

In 2002/03, the Commission continued with ongoing consultations with the taxi industry and stakeholders through its Taxi Advisory Committee.

Commission consultations through its Bus Industry Advisory Committee were on hold pending government's clarification of its regulatory direction. The exception was a working group meeting to solicit industry advice on bus definition issues.

Cooperation with the Minister responsible for the Motor Carrier Commission

The Commission is an administrative tribunal that operates independently from government. It reports to the Legislature through the Minister responsible for the Motor Carrier Commission who, in 2002/2003 was the Minister of Transportation. The Chair of the Commission, as requested, provides information and updates on Commission operations to the Minister. Specific adjudicative matters that are before the Commission are not discussed with the Minister.

In 2002/2003, the Commission continued to work cooperatively with the Minister and Ministry to promote understanding of its unique role and relationship as an independent tribunal. This was particularly important with the government and ministry reviews of motor carrier regulations and the Commission mandate. It was also important to Commission functions relating to communications, budget administration, human resources and other administrative matters.

Cooperation with ICBC and other Government Bodies and Agencies

ICBC Tour Bus Working Group

The Commission concluded its participation in a working group established by the Insurance Corporation of British Columbia (ICBC) that is reviewing the business practices and regulatory framework for tour bus companies that operate in British Columbia.

Other Government Agencies

The Commission consulted with a number of agencies respecting initiatives contemplated by the Commission relating to taxi driver safety and general regulatory reforms. Agencies included ICBC, the National Safety Code, Workers' Compensation Board, the Office of the Information and Privacy Commissioner, the Vancouver International Airport Authority, the Ombudsman, and municipal governments.

Looking Ahead

The Commission focus for 2003/04 is the regulatory changes that the Minister of Transportation announced on February 6, 2003, but which have yet to be implemented.

In the fall of 2002, the Commission initiated a review of the four regulations under its administration. The aim is to make revisions that amalgamate four regulations, eliminate redundant regulations, streamline processes and hearings, and clarify the requirements for objectors. All revisions to the motor carrier regulations must remain consistent with the *Motor Carrier Act*.

The Commission anticipates that it will continue to provide advice to the Ministry and government in its work to change the *Motor Carrier Act*. The Commission also expects to be involved in a number of other key activities in 2003/04, which include:

- Post-implementation review of taxi cost index with stakeholders.
- Continued work on a taxi driver safety initiative to reduce the safety risk of taxi drivers.
- Initiatives to enhance the enforcement of motor carrier regulations.
- Collaboration with commercial vehicles regulators to ensure compliance with safety standards by taxis modified to transport persons with disabilities and wheelchairs.

- ♦ A new Memorandum of Understanding with the Ministry of Transportation will be developed to coincide with the announced transfer of the Motor Carrier Department from ICBC to the Ministry of Transportation.

APPENDIX 1

COMMISSIONERS

The Commission consists of not less than seven persons appointed by the Lieutenant Governor in Council. Commission members at the end of the 2002/2003 licensing year (February 28, 2003) were:

Dennis J. Day, Chair
William H. Bell
Ranjiet Bhimji
Peter Knittel
Mary Martin
Barrie Sanford
Dale Wall

APPENDIX 2

COMMISSION STAFF

The Commission functions with four full-time staff working out of its office in Victoria.

Jan Broocke	Director and Secretary to the Commission
Michael McGee	Policy and Adjudicative Services Coordinator
Lisa James	Registrar for Commission hearings and reconsiderations
David Watling	Research and Administrative Coordinator

Janice Olson filled the position of Research and Administrative Coordinator as an auxiliary from July 30, 2001, in the previous reporting period until March 29, 2002. She worked in the same capacity from June 17, 2002, until August 23, 2002. David Watling began as Research and Administrative Coordinator on April 2, 2002. Lisa James retired as Registrar as of December 31, 2002, and David Watling began the transition to Acting Registrar as of December 10, 2002. Kathy Mitten joined the Commission staff on January 6, 2003, as Acting Research and Administrative Coordinator.

The Commission uses the services of a part-time Special Assistant to the Chair who works out of an office adjacent to the Motor Carrier Department in Burnaby. Mert Rowden fulfils this role by providing technical expertise and experience in motor carrier matters to the Commission.

APPENDIX 3

AMENDMENTS TO THE MOTOR CARRIER ACT AND REGULATIONS

The following table provides a 2002/03 chronology of amendments to the Motor Carrier Act and Regulations.

Effective	Statute or Regulation	Purpose / Subject Matter
May 17, 2002	BC Reg 102/2002	Create the <i>Community Care Facility Exemption Regulation</i> to exempt from the <i>Motor Carrier Act</i> persons providing passenger transportation when licensed under the <i>Community Care Facility Act</i> .
June 21, 2002	BC Reg 150/2002	Housekeeping replacement of definition of "motor vehicle" in the <i>Motor Carrier Act</i> to keep it in line with other legislation. (Reference with 2000 Bill 20.)

APPENDIX 4

ORDERS SIGNED IN 2002/03

The following summaries of Commission orders relate to a decision on a motor carrier licence application. The summaries are provided for convenience and reference purposes only. The full orders and any applicable Conditions of Licence can be viewed at the Motor Carrier Commission website or obtained from the Commission to determine what authority the Commission has granted, granted in part or refused.

Order	Applicant	Date Signed
08 - 02	Inquiry into Snow Bus/Snow Club	March 11, 2002
<i>Decision: Cease and Desist Order</i> The Motor Carrier Commission held an inquiry under section 44 of the Motor Carrier Act to determine what, if any, type of transportation service is being offered by Blue Cactus Productions Ltd., operated by Mr. Joktan Elbert, and what, if any sections of the Motor Carrier Act would apply to "SnowClub" and/or Blue Cactus Productions Ltd. The hearing was held at the request of Mr. Elbert and his counsel, following enforcement action by the Motor Carrier Department against a licensed motor carrier with whom Mr. Elbert had a business arrangement.		
09 - 02	Snow Bus/Snow Club - Amending Order	March 11, 2002
The decision of the Commission regarding Order 08-02 contained a clerical error.		
11 - 02	Karl Heinz Kempfle	April 4, 2002
<i>Decision: Grant in part</i> Application for an alteration of the commercial passenger licence to include all of Licence District 9; add Cache Creek, Ashcroft and Pemberton as terminal points; to increase the number of vehicles allowed under Restriction A; and to add four additional vehicles.		
12 - 02	Whistler Connection Tour & Travel Service Ltd.	March 21, 2002
<i>Decision: Refused</i> Application for two new certificates to operate as a Commercial Passenger Vehicle providing charter trips to passengers from the Resort Municipality of Whistler to points from within 50 kilometres of Whistler and from Vancouver International Airport to the Resort Municipality of Whistler or vice-versa.		
13 - 02	Wanda Noreen Johnson (Review Hearing)	April 4, 2002
<i>Decision: Renew Certificates</i> This review hearing was held following a request from Lawrence William Van Allen, operating manager and representative for Wand Noreen Johnson, for a review of a July 11, 2002 decision by the Commission not to renew the certificates for the inactive taxi operation under Motor Carrier Licence 14613 (Wanda Noreen Johnson)		
14 - 02	South Coast Transportation Group (1967) Inc.	March 22, 2002
<i>Decision: Licence Suspended</i> South Coast Transportation Group (1967) Inc., based in Richmond holds a motor carrier licence (50857) to operate as a commercial passenger vehicle in parts of the Lower Mainland. Also the company may operate as an extra-provincial		

carrier. The company has authority to operate up to twenty-two vehicles with a carrying capacity of not less than eleven and not more than fifty-seven passengers.

On January 8, 9, and 10, 2002, the Superintendent of Motor Vehicles held a hearing to determine whether it is desirable, in the interests of road safety, to direct the Insurance Corporation of British Columbia (ICBC) to cancel South Coast's NSC Certificate. On March 19, 2002, the Superintendent of Motor Vehicles directed ICBC to proceed with the cancellation of South Coast Transportation Group (1967) Inc.'s National Safety Code Certificate Number 200-006-370 effective March 22, 2002.

The cancellation of a national safety code certificate means that, in effect, a carrier is unable to operate its vehicles and provide a commercial transportation service. The commission will, therefore, suspend the motor carrier license of South Coast Transportation Group (1967) Inc.

**15 – 02 Yellow Cabs (Kamloops) Ltd.
Kamloops Transportation Ltd.**

April 4, 2002

Decision: Refused

Application to alter an each company's motor carrier licence to expand their territory to include all of Licence District 7 and parts of Licence Districts 9, 11, and 16. A change in the Restriction was also requested. As well, each company applied to operate three additional vehicles.

16 – 02 District of Chetwynd

April 8, 2002

Decision: Grant in part

Application for one vehicle with a carrying capacity of eleven passengers, exclusive of the driver for transportation for the recreational programs offered to the community, particularly children, teenagers, and seniors.

A restriction was placed on the licence that the van must be used only for recreation programs offered by the District and be in the direct control of the Chetwynd and District Recreation Centre.

17 – 02 Robert Rogers

April 22, 2002

Decision: Grant in part

Application to add a new clause for service, under contract, to Saddle Rose Tours Ltd.

18 – 02 David Lequesne

April 15, 2002

Decision: Grant in Part

Application for 6 additional certificates for the same area of operation, based on growth in demand. The removal of the vehicle age stipulation is also requested.

The Commission granted 4 additional certificates and grant the removal of the vehicle age stipulation.

19 – 02 David Lequesne – Amending Order

April 19, 2002

Order 18-02 contained a clerical error in the wording of outline of the Conditions of Licence

20 - 02 Global 2001 Tank Sales Inc.

May 10, 2002

Decision: Refuse

Application made for a new commercial passenger transportation service in Campbell River. Nine vehicles would be operated some with a carrying capacity of 5 passengers, and some with 47 passengers. After an adjournment of November 6 and December 14, an outstanding debt by the applicant was not satisfied by the due date and the application was refused.

21 - 02 Club Wine Tours Inc.

May 17, 2002

Decisions: Grant

Application for a new commercial passenger licence with two certificates to operate tours relating to the wine industry in the Thompson-Okanagan area of BC.

22 - 02 Bonny's Taxi Ltd. (Application AV1042/00)

May 28, 2002

Decision: Grant in part

Application made for 10 additional certificates for wheelchair accessible vehicles.

The Commission granted for five additional vehicles.

23 - 02 Bonny's Taxi Ltd. (Application 1043/00)

May 28, 2002

Decision: Refuse

Application made for the alteration of Commercial passenger vehicle licence to include a shared ride taxi service to provide a door to door transportation service with a zone-based tariff. The service would be provided on a pre-booked basis and available within the City of Burnaby and to the Vancouver International Airport with a maximum carrying capacity of 5 passengers exclusive of the driver.

24 - 02 Robert Rogers (Review of 17-02)

June 10, 2002

Decision: Grant subject to an amended tariff being filed within 30 days

Application made to request a review regarding Order 17-02 with regard to carrying capacity. As this related to a factual matter in the order, the Commission agreed to a review.

26-02 through 94-02

June 24, 2002

Bulk Show Cause Orders

Pursuant to Section 10 of the Motor Carrier Act, the Motor Carrier Commission may hold hearings to cancel the licenses of carriers who have not renewed any certificates for at least one year. Also, see bulk show cause Orders 95-02 and 03/03.

95-02 David Davenport DBA Pacific Companion Service

July 18, 2002 (Bulk Show Cause)

Decision: Continued for two certificates upon payment of fees

Pursuant to Section 10 of the Motor Carrier Act, the Motor Carrier Commission may hold hearings to cancel the licenses of carriers who have not renewed any certificates for at least one year. The respondent had not renewed motor carrier certificates for the past two years as a result of a bankruptcy action that culminated in the seizure of his vehicles. He was subsequently granted release and was now in a position to provide the service for which he had been licensed.

96-02 Silver Lady Limousine Service Ltd

August 9, 2002

Decision: Grant in part

Application to alter a commercial passenger licence by authorizing operation of larger vehicles, expansion of the geographic area of operation, four additional certificates, and a new tariff.

97-02 North Shore Taxi (1966) Ltd.

August 30, 2002

Decision: Grant in Part

Application made for 10 new certificates to be restricted to vehicles equipped to handle passengers using mobility aids, although the vehicles would not be limited to serving only passengers with disabilities

The Applicant is granted five new certificates.

98-02 Silver Lady Limousine – Amending Order

August 15, 2002

The decision of the Commission regarding Order 97-02 contained a clerical error in the wording of the order.

99 – 02 Surrey Bus Service Ltd

August 21, 2002

Decision: Licence Suspended

Surrey Bus Service Ltd holds a Motor Carrier Licence (53382) to operate as a commercial passenger vehicle in parts of the Lower Mainland. Also the company may operate as an extra-provincial carrier. The company has authority to operate up to nineteen vehicles with a carrying capacity of not less than eight and not more than sixty passengers.

On May 13-17 and June 17-19, 2002, the Superintendent of Motor Vehicles held a hearing to determine whether it is desirable, in the interests of road safety, to direct the Insurance Corporation of British Columbia (ICBC) to cancel Surrey Bus Service Ltd. NSC Certificate. On August 15, 2002, the Superintendent of Motor Vehicles directed ICBC to proceed with the cancellation of Surrey Bus Service Ltd. National Safety Code Certificate Number 200023199 effective August 22, 2002.

The cancellation of a national safety code certificate means that, in effect, a carrier is unable to operate its vehicles and provide a commercial transportation service. The commission will, therefore, suspend the motor carrier licence of Surrey Bus Service Ltd.

100-02 Taxi Cost Index

October 21, 2002

The Motor Carrier Commission, through its Taxi Advisory Committee, has initiated a review of fare structure policies, processes and procedures. The Committee recommended that the Commission adopt a taxi cost index (TCI) based on

objective measurements, to identify appropriate rate increases for taxis. Taxi operators may apply for a rate increase of 3.34 percent beginning in October 2002.

101-02 Silver Fox Coach Lines Ltd.

September 26, 2002

Decision: Licence Suspended

Silver Fox Coach Lines Ltd. holds a Motor Carrier Licence (63535) to operate as a commercial passenger vehicle under charter and contract, in British Columbia and extra-provincially. Also the company may operate as an extra-provincial carrier. The company has authority to operate up to six vehicles with a carrying capacity of not less than eleven and not more than fifty-five passengers.

On September 18, 2002, the Superintendent of Motor Vehicles issued a decision of whether it is in the interests of road safety, to direct the Insurance Corporation of British Columbia (ICBC) to cancel Silver Fox Coach Lines Ltd. NSC Certificate. On, 2002, the Superintendent of Motor Vehicles directed ICBC to proceed with the cancellation of Surrey Bus Service Ltd. National Safety Code Certificate Number 200-022-809 effective immediately.

The cancellation of a national safety code certificate means that, in effect, a carrier is unable to operate its vehicles and provide a commercial transportation service. The commission will, therefore, suspend the motor carrier licence of Silver Fox Coach Lines Ltd.

103-02 South Coast Transportation Group (1967) Inc.

October 24, 2002

Decision: Cancellation of Licence

Pursuant to Section 10 of the Motor Carrier Act, the Respondent was sent a notice of hearing by registered letter to its last known address. The respondent did not attend the hearing to make submission as to why the licence should not be cancelled. In March 2002, the Commission suspended South Coast Transportation Group (1967) Inc.'s Motor Carrier licence as a result of the cancellation of the carrier's National Safety Certificate. That order stated that the suspension would be in effect until either the licence was cancelled or the carrier satisfies the Commission that it has obtained a new safety certificate and is able to operate its vehicles and business in an adequate, safe and efficient manner. The carrier has not responded to either Order 14-02 or this hearing.

104-02 City and Country Taxi Service Ltd. – Amending Order

October 21, 2002

Amendment to Order 40-02 which contained a clerical error.

105-02 Bonny's Taxi Ltd. – Amending Order

November 1, 2002

Amendment to Order 22-02 which contained a clerical error

106-02 West Van Cab Ltd.

November 29, 2002

Decision: Refuse

The application consists of two parts. Part 1 is for a new scheduled bus and commercial passenger licence with eleven certificates, and Part 2 is for a commercial passenger vehicle service in the nature of a shared ride within West Vancouver.

01-03 Blue Cactus Productions Ltd.

January 21, 2003

Decision: Refuse

Application for three certificates to operate a scheduled bus service between Richmond, BC and Whistler BC with stops in Vancouver, West Vancouver, and Squamish and vice-versa. The application makes reference to a "winter schedule" but no specific dates are published. The business plan states that the application is for "Operating from November through April but with the ability, if the market supports it, to add year round scheduled service."

While the Commission found that there was a potential market for this service, Blue Cactus did not satisfy the Commission that it was fit or able to provide a service in a safe or efficient manner.

02-03 632226 BC Ltd.

January 29, 2003

Decision: Transfer Approved with Additional Conditions Attached

The licence, which is the subject of this hearing, is Motor Carrier Licence No. 55631, first issued to Sybarite Investments Ltd. (DBA Classic Limousine Service) in 1977. The applicant intends, if successful in acquiring the licence, to operate 35 vehicles including limousines, sedans and SUV", as well as buses ranging from 10 to 24 passengers.

03-03 CityLink Bus Lines Ltd.

February 3, 2003 (Bulk Show Cause)

Decision: Licence Cancelled

Pursuant to Section 10 of the Motor Carrier Act, the Respondent was sent a notice of hearing by registered letter to its last known address. CityLink Bus Lines Ltd. responded to the Notice indicating that it wished to make representations to the Commission and requested an alternate hearing date be set. The hearing commenced on November 28, 2002 and was adjourned to enable CityLink bus Lines Ltd. to obtain legal counsel. Subsequently, a new hearing date of February 3, 2003 was set. On January 31, 2003, a letter to the Commission was received from Martin Bielz, President and Director of CityLink Bus Lines Ltd. stating that "Due to regulatory and economic pressures, I herewith surrender the Motor Carrier Licence issued by the Commission to CityLink Bus Lines Ltd. - Licence #65459".

APPENDIX 5 RECONSIDERATION ORDERS SIGNED IN 2002/03

The following summaries of reconsideration orders relate to the Commission's reconsideration of a decision that it made previously. The summaries are provided for convenience and reference purposes only. The full reconsideration orders and any applicable Conditions of Licence should be obtained to determine the full impact of any reconsideration on a previous licensing decision. The complete text of each reconsideration order is posted at the Commission web site.

Order	Person Requesting Reconsideration	Date Signed
RR3/02	Ted Alvin Sandholm	April 10, 2002

Reconsideration Outcome: Confirmation of original refusal

In April 2001, Mr. Sandholm's application to operate a limousine service in the District of Campbell River and the Comox Valley Airport was published. Two carriers objected to this application. After an investigation by an Inspector of the Motor Carrier Department, the application was refused. Mr. Sandholm requested reconsideration on the ground that evidence not available at the time of the original decision had become available. The Commission reviewed the submission and found that Mr. Sandholm did not meet the grounds for reconsideration set out in the Motor Carrier Act.

RR4/02	Amrpal Singh Badesha and Brenda Lee Badesha (DBA Cruiser Cab Company)	April 10, 2002
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Reconsideration Outcome: Original Decision Varied – Grant One (1) Certificate for point to point service in the City of Salmon Arm

Application was to operate a new taxi service within Salmon Arm and surrounding area. Four objections were filed to the application. After an investigation, an Inspector from the Motor Carrier Department recommended refusal because there was not a demonstrated need for the service, and that other licensees, working at full capacity may be economically threatened by the granting of the licence. The Commission accepted the recommendation.

The Investigator's report notes that the applicants were granted a temporary permit to provide a service from point to point within the City of Salmon Arm effective June 1 to August 31, 2001. The temporary permits were renewed by the Commission pending the outcome of the reconsideration.

The request for reconsideration based on new evidence failed, in that the evidence could have been obtained at the time of the original decision. The Commission did, however, find that the failure in both the Inspector's report and the Commission's decision to address the reasons for granting a temporary permit issue resulted in a breach of administrative fairness. How, if there was reason to grant a temporary permit in the first place, was the application denied outright? Moreover, in neither of the objections to this reconsideration, is there concrete evidence of the impacts that this service has had on the operations of existing carriers.

Reconsideration Outcome: Confirmation of original refusal

EasyLINK Shuttle Inc. applied to the Motor Carrier Commission to establish a new, pre-booked shared ride service that charges individual fares based on zones. The applicant sought authority to operate 100 vehicles in a large portion of the Lower Mainland. The applicant conveyed its intentions that 25 of the vehicles were to provide an airport service 18 hours per day, 7 days a week, and that the remainder (starting with about 40) were to provide a community/commuter service at peak travel times. On February 5, 2001, following submissions on matters of disclosure, the hearing was adjourned. On February 3, 2001, the Commission issued Order 5-01 relating to document confidentiality and disclosure matters. The hearing continued on April 4-6, 9-11 and 19, 2001. On June 19, 2001, the Commission issued Order 14/01 which refused the application "in whole". In summary, the Panel was not satisfied that EasyLINK's extensive service would be viable, and it was concerned that, because of the vagueness of the implementation plan, that the applicant could operate only in "premium" markets and, therefore, result in destructive competition with other carriers.

EasyLINK Shuttle Inc. filed a request for reconsideration on grounds that the decision is inconsistent with the objects expressed in Section 39(1) of the *Act* or the *Regulations*. The Commission proceeded first by way of written submissions by EasyLINK and the respondents which are noted on the first page of the Order. Given the complexity and large volume of materials for the application, a public hearing was also convened and concluded on March 7, 2002, to hear the oral arguments of the parties.

In this reconsideration, the key points to address are whether the original Panel addressed its mind to the objects of the *Motor Carrier Act* in its decision making process, whether the law and Commission policies were properly applied, and whether the decision was made in a manner consistent with the principles of administrative fairness. If these issues are answered in the affirmative, then the original decision must be confirmed. Otherwise, the decision must be revoked, varied, or referred back to the original Panel, or this Reconsideration Panel may make any other order it considers appropriate.

The Reconsideration Panel finds no misinterpretation or misapplication of law and no unfairness in the decision making process. The Panel is satisfied that Decision 14-01 provides a clear record of the considerations and reasons leading to the refusal of the application, and that the original decision-making process adequately addresses the objects of section 39(1) of the *Act* and the *Regulations*. Therefore, the Reconsideration Panel is not satisfied that the Decision or Order is inconsistent with the objects expressed in section 39(1) of the *Act* or the *Regulations*. Order 14-01 is confirmed, that is, that the application be refused.

Reconsideration Outcome: Confirmation of original refusal

On October 17, 2000, Peter Bo Jensen, doing business as Signature Transportation and Tourist Services made application to the Motor Carrier Commission to add three additional certificates and to enlarge the operating territory of his existing licence and to operate more vehicles with a carrying capacity of not less than four, excluding the driver, and not more than 10, excluding the driver. The application was one of a number of similar applications received by the Commission to operate a sedan limousine service. The Commission considered all these to be competing applications and ordered that they be investigated through sequential public hearings.

Mr. Jensen's hearing was held on April 18, 2001, and the decision of the three-person Panel conducting the hearing was rendered in Order 28-01 on July 27, 2001. The Panel refused the applications on the grounds that Mr. Jensen had not adhered to his Conditions of Licence, nor the Motor Carrier Act and its regulations. Mr. Jensen adopted a singular interpretation of the meaning of his Conditions of Licence, and the Panel concluded this interpretation was not consistent with the intent of the Act and that the public interest would not be well serviced by granting the two applications.

Mr. Jensen subsequently filed a request for reconsideration based on a review of the documents in the file and Order 28-01. In this case, the record is the information in the application file that was before the original Panel or the Commission when it made its decision, and includes Order 28-01. New evidence has not been accepted or considered in this proceeding.

The key points to be addressed in the reconsideration were whether the panel addressed its mind to the objects of the act in its decision making process and if the law and commission policies were properly applied and within the parameters of administrative fairness. If these issues are answered in the affirmative, then the reconsideration will fail.

The Commission orders that the decision of the Commission made on July 27, 2001 with respect to applications to be confirmed, that is, the applications be refused.

**RR7/02 Trendtham Group Enterprises Inc.
 (DBA Star Taxi)**

June 7, 2002

Reconsideration Outcome: Confirmation of original decision – Granted in Part

In September 1999, Trendtham Group Enterprises Inc. (Star Taxi) began operating a taxi service within the City of Kelowna. At that time, a motor carrier licence was not required for taxis operating exclusively within a municipality. This situation changed with the introduction of the *Motor Carrier Amendment Act, 2000*, which eliminated the municipal exemption and required all taxi operators to have a motor carrier licence by March 15, 2001.

On August 14, 2000, Star Taxi's application was published in the Commission's "Green Sheets". Star Taxi applied for a new motor carrier licence to operate a total of 21 taxis with service originating within 40.232 road kilometres of the main Kelowna Post Office. The matter was set down for public hearing and the Commission granted Star Taxi temporary operating permits for 5 vehicles until the public hearing concluded and the Commission rendered its decision.

City View Water Taxi and Checkmate Cabs also applied for further taxi authority and the three applications were deemed to be competing applications; each applicant was deemed an objector of the other two applications. The Star Taxi hearing began on April 26, 2001, and with an intervening adjournment, concluded June 15, 2001. Kelowna Cabs was an objector at the Star Taxi hearing.

On August 10, 2001, the Commission issued Order 34-01 granting Star Taxi's application with 11 certificates (vehicles). The original panel did not find justification for 21 certificates. Kelowna Cabs (1981) Ltd. filed a request for reconsideration on the grounds that the decision is inconsistent with the objects expressed in section 39(1) of the *Act* or the *Regulations*.

The Commission proceeded with a written reconsideration with submissions received from Kelowna Cabs and Star Taxi.

At reconsideration, the Panel was not satisfied that the decision set out in Order 34-01 was inconsistent with the objects expressed in section 39(1) of the *Motor Carrier Act* or the *Regulations*. The Commission orders that the decision of the Commission made on August 10, 2001 with respect to the application be confirmed, that is, that the application be granted in part.

**RR8/02 Ronald Edward Grabowski
 (DBA Blue Mountain Limousine)**

August 6, 2002

Reconsideration Outcome: Confirmation of original refusal

On July 26, 2001, Ronald Edward Grabowski, doing business as Blue Mountain Limousine, made application to the Motor Carrier Commission for one new Commercial Passenger Licence with one certificate. An investigation by the Motor Carrier Department, dated November 8, 2001, recommends refusal of the application due to a lack of public support, and no proof that service cannot be provided by already licensed carriers.

On reconsideration, the Commission is not satisfied that evidence has become available that was not available at the time of the original decision. Nor is it satisfied that the original decision is inconsistent with the objects expressed in section 39(1) of the *Act* or the *Regulations*. The original decision is confirmed, that is, the application is refused.

RR9/02 Paul Krolak (DBA Comfort Taxi)

September 12, 2002

Reconsideration Outcome: Order revoked – Application Granted

Paul Krolak, doing business as Comfort Taxi applied for a new commercial passenger vehicle licence and one certificate to operate a taxi service within the City of Kelowna. Mr. Krolak had been operating for approximately eighteen months as a municipal licensed carrier. This situation changed with the introduction of the *Motor Carrier Amendment Act, 2000*, which eliminated the municipal exemption and required all taxi operators to have a motor carrier licence by March 15, 2001.

Mr. Krolak's hearing was held on December 4, 2001, and the decision of the one-person panel conducting the hearing was rendered in Order 03-02 on January 18, 2002. The licence was refused on the grounds that Mr. Krolak had not established evidence of substantial need for the service, and had not demonstrated that existing carriers were failing to provide adequate service, did not pass the test of fitness, especially in knowledge of safety regulations, and failed to have a sound business plan to improve financial profitability for proper vehicle maintenance. The Commissioner also took into consideration other applications in August 2001 for additional taxi certificates in the same area and circumstances under which the application was made.

In conclusion, the Commissioner stated that he would have been prepared to grant authority to the applicant with the presentation of a more solid business strategy to develop a niche market and if the applicant had fulfilled a clearly specified expectation of safety knowledge and responsibilities.

Mr. Krolak filed a request for reconsideration.

On reconsideration, the Panel accepted new information provided, but found that it was not substantial enough on its own to overturn the decision under section 54(1)(b), the panel found that the applicant met the commission's policy with respect to need for the service. The panel also found that the policies applied by the original panel were inconsistent with Commission policies.

Firstly, the Panel found that the MC-31 report, on page 5, listed the applications before the Commission. Each application is viewed on its own merits. The applicant is to be granted or refused a licence on service need, safety responsibilities and sound economic transportation services only. Thirdly, the Commissioner outlined five expectations as criteria to be met, yet used six evaluation criteria. It appears that the standards to be met by the applicant for licensing authorization changed without Mr. Krolak's knowledge. This is inconsistent with Commission policy.

The Commission orders that the decision made on January 18, 2002 be revoked, that is, the application be granted.

RR10/02 Whistler Connection Tour and Travel Services Ltd.

September 27, 2002

Reconsideration Outcome: Confirmation of Original Refusal

On November 14, 2000, Whistler Connection Tour and Travel Services Ltd. (Whistler Connection) applied for a Motor Carrier Licence and two certificates to operate a charter bus service in the area of the Resort Municipality of Whistler, and to and from Vancouver International Airport. The Commission decided to investigate the application further by way of a public hearing, which was held on January 25, 2002. In its decision of March 21, 2002, the Commission refused the application. Whistler Connection filed for reconsideration under section 54(1)(b) of the Act, that the decision was inconsistent with the objects expressed or implied by the Act.

Whistler Connection's request for Reconsideration is based on the record. In this instance, the record is the information in the application file that was before the original Panel of the Commission when it made its decision and the submissions received pursuant to this reconsideration. New evidence is not accepted or considered.

Whistler Connection stated that the decision is inconsistent with the objects expressed in Section 39(1) or the Act or regulations and the original decision was procedurally unfair, however no detail was provided as to the basis of this belief. The points raised were essentially matters already considered by the original panel, which decided these issues were not significant or compelling enough to justify granting the requested authority.

The original decision of the Commission stands, that is, the application is refused.

RR11/02 Orca Taxi Inc.

October 1, 2002

Reconsideration Outcome: Confirmation of Original Refusal

Orca Taxi Inc. made application for a new commercial passenger licence with 20 certificates in November 2001. The application was refused by the Commission on the grounds that service need was not proven. The applicant applied for Reconsideration under both sections 54(1)(a) and 54(1)(b), and a hearing was held on July 30, 2002.

The new evidence the Applicant presented consisted of a number of newspaper clippings highlighting a number of activities going on in the area. It is difficult to see how any of these activities relate to an increased need for taxi service. Since most of the articles were not dated, it was not possible to tell whether this was truly new evidence or whether it was available at the time of the original hearing. Accordingly, the evidence was not sufficient to challenge the original decision.

In its original decision, the Commission found that the Applicant did not prove a substantial need for additional taxicab service in the broad proposed area of origination set forth in the application. Also, the Commission found that there are carriers now serving this area who seem to be able to generally meet the need of the communities included in the area of application. The fact that need was not proven suggests that there is adequate service already in the area meeting the needs of the public.

The decision of the Commission made on March 7, 2002, is confirmed, that is, the application is refused.

RR12/02 Zebra Holdings Ltd.

October 1, 2002

Reconsideration Outcome: Confirmation of Original Refusal

Zebra Holdings Ltd. made application for a new commercial passenger licence with 10 certificates early in 2002. The application was refused by the Commission on the grounds that service need was not proven. The applicant applied for Reconsideration under both sections 54(1)(a) and 54(1)(b), and a hearing was held on July 29, 2002.

The new evidence the Applicant presented consisted of a number of newspaper clippings highlighting a number of activities going on in the area. It is difficult to see how any of these activities relate to an increased need for taxi service. Since most of the articles were not dated, it was not possible to tell whether this was truly new evidence or whether it was available at the time of the original hearing. Accordingly, the evidence was not sufficient to challenge the original decision.

In its original decision, the Commission found that the Applicant did not prove a substantial need for additional taxicab service in the broad proposed area of origination set forth in the application. Also, the Commission found that there are carriers now serving this area who seem to be able to generally meet the need of the communities included in the area of application. The fact that need was not proven suggests that there is adequate service already in the area meeting the needs of the public.

The decision of the Commission made on March 7, 2002, is confirmed, that is, the application is refused.

RR13/02 Mack Limousine Service Ltd.

October 15, 2002

Reconsideration Outcome: Order Revoked – Application Granted in Part

The Applicant, Mack Limousine Service Ltd., based in Vancouver BC has held motor carrier authority with 2 certificates since 1993. George Mack, President, made application to amend the current restriction of use of a vehicle of the Rolls Royce manufacture to the use of a luxury sedan. The carrying capacity in each instance has a maximum seating capacity of four, exclusive of the driver.

The application was refused by the Commission on March 18, 2002, on the grounds that the applicant had not provided evidence of substantial need. The Commissioner stated that the meagre evidence of public need offered by the applicant originated in the City of Vancouver, and its by-laws do not allow the licensing of sedan limousines. Mr. Mack filed a request for reconsideration based on a review of the documents in the file and the submission by the applicant's agent.

The agent for Mack Limousine Service Ltd. stated the applicant has developed a financially sound limousine company without any debt incurred. He indicated that the applicant had fostered sound economic conditions in the transportation industry without impacting the financial well being of other similar companies.

The application was refused by the Commission on the basis that the applicant had not satisfied the panel that there was need for the service. The investigation report of the Motor Carrier Department noted that the applicant had a satisfactory safety record and its vehicles had passed inspections. It also noted that there were no objectors to the application; therefore, effect on the transportation industry did not seem to be a significant issue.

The applicant's agent referenced Order 23-01, 29-01 and 32-01 of the Commission regarding sedan limousines. In each of these orders, the Commission granted the applicants authority to operate a "sedan" limousine in the City of Vancouver (in addition to other municipalities). The Orders also noted that the City of Vancouver's Vehicle for Hire by-law did not allow for sedan limousines. Also, in each of these decisions, the Commission found that the applicant satisfied the Commission of need for the service.

It would appear from reading the limousine orders above that the Commission has developed a policy of approving sedan limousines if it is satisfied that there is a need for the service and there are no other mitigating factors. This policy was established notwithstanding that the City of Vancouver Vehicle for Hire by-law did not allow for sedan limousines. In its decision, the Commission appeared to link its refusal of the application to the state of the City of Vancouver's Vehicle for Hire by-law. There was no explanation of why this decision deviated from previous Commission policy.

The Commission orders that the decision made on March 18, 2002 be revoked; that is, that the application be granted in part.

RR14/02 Blackhawk Production Consulting Ltd.

November 1, 2002

Reconsideration Outcome: Order Revoked

In October 2001, Blackhawk Production Consulting Ltd. (Blackhawk) applied to expand the area of charter service within Licence District 21 in the Northeast sector of BC; to amend the carrying capacity of its vehicles; and to add an additional vehicle. Gold Pan City Stage Lines Ltd. (Gold Pan) objected to the application.

The Motor Carrier Department investigated the application and prepared a written report recommending deferral of the application for one year. In the interim, the applicant would be issued temporary operating permits. The rationale was that temporary permits would "allow potential customers the opportunity of using the applicant's service, and help illustrate to the applicant and the Commission whether a need and viable service exists for the expanded area, increased carrying capacity of the vehicles and an additional vehicle".

On January 22, 2002, the Motor Carrier Commission granted the application in full. On February 25, 2002, Gold Pan submitted a request for Reconsideration citing that the decision is inconsistent with the objects expressed in section 39(1) of the *Motor Carrier Act* or in the *Regulations*.

The Motor Carrier Department recommended deferral of the application for one year and to enable the applicant to operate on temporary operating permits. Almost one year had passed since the Commission made its decision to grant the application.

The recommendation of the Motor Carrier Department was to defer the application for a period of one year and to enable the applicant to operate on temporary operating permits. It is almost one year since the Commission made its decision to grant this application.

The decision of the Reconsideration panel is to revoke the decision of the Commission and substitute it with an Order that will put Blackhawk in essentially the same place that it would have been had the Commission accepted the recommendation of the Department.

The authority granted to Blackhawk by virtue of application 1541/01 is revoked. The Department will issue Blackhawk a new licence that reverts to its motor carrier authority prior to the granting of application 1541/01. The number of vehicles that may be operated under the licence and their carrying capacity also revert back.

RR15/02 City & Country Taxi Service Ltd.

November 25, 2002

Reconsideration Outcome: Confirmation of Original Order – Grant in Part

City & Country Taxi Service Ltd. applied to for 13 additional certificates, three of which were for wheelchair accessible vehicles. Order 04-02 granted the three wheelchair accessible certificates, and three regular certificates. Mr. Norm Hardy, an objector to the original application, requested reconsideration under section 54(1)(b) to the three regular certificates.

The Reconsideration panel, on reviewing the written submissions, cannot find any evidence to suggest that the original panel did not satisfy Section 39(1) of the Act. The Commission decided from the evidence at the hearing and from the support certificates that there was a need for three certificates. By granting less than a third of the certificates applied for, the Commission certainly tried to provide adequate service and foster sound economic conditions.

As for procedural fairness, the Commission did state that there was not enough evidence for ten certificates and by implication that there was enough support for three certificates. While the explanation for granting the three certificates could have been more detailed, the Reconsideration Panel did not see this as a reason to alter the original order.

The Reconsideration Panel finds that the original decision was correct.

RR16/02 Arthur William Gourley

December 2, 2002

Reconsideration Outcome: Confirmation of Original Order – Application Refused

Arthur William Gourley applied for a new motor carrier licence to operate a wheelchair accessible vehicle originating in the town of Langley on October 12, 2001. At the time of the application, he held no Motor Carrier Authority, however, since 1970, Mr. Gourley has had some experience in the passenger transportation service.

On March 4, 2002, Mr. Gourley's application was refused on the grounds that there was not established evidence of substantial need for an additional taxicab service in an area already serviced by licensed wheelchair accessible vehicles. The Commissioner stated that the current licensed operators seem generally to meet the needs of the community within the area of the application.

The reconsideration is proceeding under section 54(1)(b) of the Motor Carrier Act and is based on the record. New evidence is not accepted or considered. A review of the documents on file, including the Commissioner's Memorandum dated March 4, 2002, shows that the objects of the Motor Carrier Act were addressed.

The Commissioner properly applied the test of substantial evidence of need to the application as a primary consideration for granting the authority. The Commissioner did not apply a test of business success or failure as indicated by the applicant but, rather, used the guidelines as determined by the Motor Carrier Act.

The decision was made in a manner consistent with the principles of administrative fairness. The Commissioner's finding of a lack of substantial need for this application is not based on subjectivity but rather, based on documented evidence.

The decision is confirmed, that is, the application is refused.

RR17/02 Islandlink Bus Services Ltd.

December 16, 2002

Reconsideration Outcome: Confirmation of Original Order – Application Refused

Islandlink Bus Services Ltd. (Islandlink) applied to extend service to include the Courtenay and Comox areas and to add three new certificates. The Motor Carrier Commission (the Commission), after a public hearing, decided to refuse the application in its entirety and Islandlink applied for reconsideration of the decision under both sections 54(1)(a) and 54(1)(b) of the Motor Carrier Act.

Under section 54(1)(a), Phillip Morgan, President of Islandlink, presented the panel with two new pieces of evidence. The first was Statistics Canada evidence, released in March 2002, showing that Courtenay was one of the fastest growing communities in BC. Mr. Morgan stated that this evidence was consistent with the evidence presented at the public hearing.

The second piece of new evidence was the imminent cessation of passenger service by the E&N Railway between Nanaimo and Courtenay. He claimed this left the Gray Line of Victoria Ltd. (Gray Line) as the only passenger service between Nanaimo and Courtenay.

Under section 54(1)(b), the Applicant holds that the Commission did not address section 39(1)(a) of the Motor Carrier Act in Order 07-02. This section charges the Commission with the responsibility to promote adequate and efficient service and reasonable and just charges for it. Mr. Morgan's view is that he supplied ample proof, summarized again in his submission, that there was not adequate service and efficient service in the Comox Valley and the Commission erred in refusing the application.

While Mr. Morgan presented new evidence, it was not substantial enough to affect the original decision. Growth statistics for Courtenay do not provide proof that there would be increased ridership for the proposed service and there is no evidence that the former passengers of E&N Railway would use the Applicant's proposed service.

After a lengthy public hearing and a considerable amount of evidence, the Commission made a finding of fact that there was not sufficient need proven by the applicant for the proposed service. The only argument put forward by Mr. Morgan was that he interpreted the evidence differently.

The panel also believes it is not appropriate to consider a revamped application at reconsideration. If the applicant feels a new application is more likely to succeed, he should reapply in the normal manner.